

## **Combine all hearing examiners and hearing officers into one separate agency. (LCS — Bannerman)**

### ***Overview***

- Several departments, agencies, boards and commissions use hearing examiners or hearing officers for review of various items. Some examples of departments, agencies, boards and commissions that employ hearing examiners are the Office of the State Engineer, Public Regulation Commission, Taxation and Revenue Department, Aging and Long-Term Services Department and Environmental Improvement Board. Task force members have suggested moving all hearing examiners and officers out of their respective offices and into an independent agency solely for hearing examiners and officers.

### ***Cost Savings***

- Unknown at this time.

### ***Time Frame***

- Mid term — statutory enactment of the law would be fairly easy but will require an appropriation to set up the agency. The appropriation will depend on how many hearing officers and examiners can move from current positions to the new office. Setting up the agency will require implementation time.

**NOTE:** It may be unconstitutional to require hearing examiners and officers from constitutional agencies, e.g., the Public Regulation Commission, the New Mexico Department of Agriculture and the Public Education Department, to be moved into this office. Further examination of this issue is needed.

### ***Advantages***

- Moving the hearing examiners and officers into an office separate and apart from the agency, department, board or commission whose actions are under review by a hearing examiner or officer will reduce any bias toward the entity's decision.
- The hearing examiners and officers can handle hearings from decisions of several agencies, departments, boards or commissions, thus decreasing the number of hearing examiners and officers needed and, accordingly, saving the state money in the long term.

### ***Disadvantages***

- Many hearing officers and examiners need not be lawyers. It would be wasteful for the state to hire and pay lawyers to perform tasks that do not require a legal background.
- Hearing officers and examiners specialize in certain areas. Each department, agency, board and commission uses hearing examiners and officers with expertise in the areas dealt with by the entity. It will be difficult for hearing examiners and officers to

develop this kind of expertise when so many varied issues must be addressed by entities that rely on these examiners and officers to review decisions.

### ***Implementation Mechanism***

- Statute and rule changes will be required. A statute creating the agency will need to be enacted.
- Coordination with the departments, agencies, boards and commissions will need to be achieved to ensure all hearing officer and examiner duties are moved to the new agency and that the new agency only hire or transfer persons that can address the various issues required by the entities. Hiring will be difficult to coordinate because each board, commission, agency and department will have to be consulted on hiring matters due to the broad range of issues and expertise needed in the new agency.

### ***Other Options***

- The hearing office and examiner office can be set up in conjunction with the proposed state attorneys office. This would require creation of one agency with two separate divisions.
- Set up a division of the Attorney General's Office to handle all hearing examiner and officer duties. This will eliminate the difficulty in creating a new agency, but, as noted above, all hearing officers and examiners need not be attorneys.